



May 2, 2002

Mr. Frank L. Melton
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2002-2306

Dear Mr. Melton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162245.

The City of San Antonio (the "city") received a request for "a list of the names and addresses of each member of the Noise Abatement Advisory Committee." You state that the city has already released to the requestor "a list of NAAC members and their business addresses and business phone numbers." You claim that the home addresses and home phone numbers of committee members are excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the information you claim is excepted from public disclosure is not responsive to the request for information. Furthermore, you state that the responsive information has already been released to the requestor. However, we will address your claim to clarify any confusion that may exist.

You state that the members of the Noise Abatement Advisory Committee that are the subject of the request for information are officials of the government body and, thus, are subject to section 552.117 of the Government Code. Section 552.117 excepts from disclosure the home addresses and telephone numbers of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989).* Therefore, the city may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. For

those officials who timely elected to keep their personal information confidential, the city must withhold the officials' home addresses and telephone numbers. The city may not withhold this information under section 552.117 for those officials who did not make a timely election to keep the information confidential.

You have submitted to this office the requests of five officials who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Therefore, the city must withhold these officials' home addresses and telephone numbers under section 552.117 of the Government Code. Furthermore, we note that the information released to the requestor has an additional name for which you have not provided this office with verification of his section 552.024 request. Therefore, if this official timely elected to keep his personal information confidential, the city must withhold his home address and telephone number. The city may not withhold this information under section 552.117 for this official if he did not make a timely election to keep the information confidential.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 162245

Enc: Submitted documents

c: Mr. Jerry Moulder
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(w/o enclosures)